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Atty Docket No. 020048-004200US

PTO FAX NO.: 1-571-273-8300

ATTENTION: Examiner S. Pande

Group Art Unit 1637

**OFFICIAL COMMUNICATION
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EXAMINER S. PANDE**

CERTIFICATION OF FACSIMILE TRANSMISSION

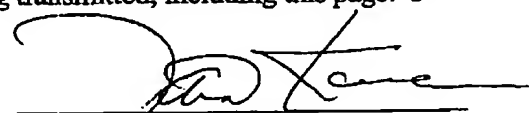
I hereby certify that the following documents in re Application of Byung Sook Moon, Martin Jones, and Johnny Valdez, Application No. 10/672,266, filed September 25, 2003 for LYOPHILIZED BEADS CONTAINING MANNITOL are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Response to Restriction Requirement.

Number of pages being transmitted, including this page: 3

Dated: 05/11/2006


Dana Kane

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TOWNSEND and TOWNSEND and CREW LLP

By: 

Dana Kane

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Byung Sook Moon
Martin Jones

Application No.: 10/672,266

Filed: September 25, 2003

For: LYOPHILIZED BEADS
CONTAINING MANNITOL

Confirmation No.: 8805

Examiner: Pande, Suchira

Art Unit: 1637

RESPONSE TO
RESTRICTION
REQUIREMENTCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is responsive to an Office Action mailed on April 18, 2006 requesting an election of claims and species. Applicants believe that no fee is required for submission of this response. However if a fee is required, the Commissioner is authorized to deduct such a fee from the undersigned's Deposit Account No. 20-1430. Please deduct any additional fees from or credit any overpayment to, the above noted Deposit Account.

Applicants elect group I, claims 1-12 and 45-43. As a species election, Applicants elect polymerases designated (a) on page 4 of the Office Action.

Applicants respectfully traverse the restriction of the claims into 4 groups and request reconsideration of the restriction of Groups I, II and IV reciting beads. A

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summary of this invention and its benefits is set forth in the introduction section of the Detailed Description on page 10 of the specification (§ 34).

At ¶34, applicants explain that the use of mannitol as a major excipient for creating the body of a lyophilized bead has important advantages when the beads are used to house water sensitive biological reagents. The beads are smooth, more uniform and less likely to stick together when placed into commercial "hoppers" used to prepare large numbers of kits for industrial use. Plus the reagents are more stable inside the beads.

Mannitol is clearly a single inventive concept found in all the pending bead composition claims, the restriction requirement is based entirely on the different biological reagents that could be housed within the beads.

This is clearly improper. It is like restricting a claim directed to a new locking mechanism for attaching a needle to a syringe body simply because there are dependent claims reciting different drugs that could be put into the syringe.

In view of the foregoing, applicants request reconsideration.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at the number provided below.

Respectfully submitted,



Kenneth A. Weber
Reg. No. 31,677

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